

65 - INDEPENDENT AGENCIES - REGULATORY

407 - PUBLIC UTILITIES COMMISSION

CHAPTER 285 MAINE TELECOMMUNICATIONS EDUCATION ACCESS FUND

SUMMARY: This Chapter implements the provisions of 35-A M.R.S.A. § 7104-B and describes the process for telecommunications carriers to contribute to the Maine Telecommunications Education Access Fund, the services eligible for discounts from the Fund, and the application process for discounts.

TABLE OF CONTENTS

§ 1	DEFINITIONS	3
A.	<u>Contributing Telecommunications Carrier</u>	3
B.	<u>Mobile Telecommunications Carrier</u>	3
BC.	<u>Qualified Library</u>	3
CD.	<u>Qualified School</u>	3
E.	<u>Radio Paging Service Provider</u>	3
DF.	<u>Telecommunications</u>	3
EG.	<u>Telecommunications Carrier</u>	3
FH.	<u>Telecommunications Education Access Fund</u>	3
GI.	<u>Telecommunications Service</u>	3
§ 2	ASSESSMENT	4
A.	<u>Contribution</u>	4
B.	<u>Establishment of the Amount</u>	4
C.	<u>Collection ProcessDetermination of Retail Revenues Derived from Jurisdictionally Mixed Charges as Intrastate or Interstate</u>	4

D. Identification of Amount on Bill Administrator

4

E. Remittance of Funds Collected 4**§3 RECOVERY OF CONTRIBUTIONS FROM RETAIL CUSTOMERS**A. Collection From Retail Customers 5B. Application to Jurisdictionally Mixed Charges 5C. Identification of Amount on Bill 5**§ 3 USE OF FUNDS**

45

A. Eligible ServicesB. Minimum ServicesAvailable 56C. Innovative and Technologically Advanced Projects 56**§ 4 ELIGIBILITY FOR STATE DISCOUNT**

56

A. Eligibility Criteria

56

B. Use of Federal E-Rate

56

C. Application Process

56

§ 5 ADVISORY**BOARD**

56

A.	<u>Membership</u>	
.....		56
B.	<u>Duties</u>	
.....		67
C.	<u>Procedures</u>	
.....		67
§ 6	WAIVER OR	
EXEMPTION	78

§ 1 DEFINITIONS

A. Contributing Telecommunications Carrier. “Contributing Telecommunications Carrier” means any telecommunications carrier offering telecommunications services in Maine that had billed revenues of \$12,500 or more during the most recently completed quarter year, including all interexchange carriers (IXCs), local exchange carriers (LECs), mobile telecommunications carriers and paging providers and any other entities providing two-way interactive communication services comparable to those offered by telecommunications carriers, as determined by the Commission pursuant to 35-A M.R.S.A. § 7104-B(8).

B. Mobile Telecommunications Carrier. “Mobile telecommunications carrier” means a carrier that provides mobile telecommunications services, as defined in 35-A M.R.S.A. § 102(9-A).

BC. Qualified Library. “Qualified library” means a public library as defined in 27 M.R.S.A. § 110(10); research center as defined in 27 M.R.S.A. § 110(12); or a library that provides free public access to all advanced telecommunications services available at that library and whose collection serves as a statewide resource, if the Commission determines, in consultation with the Maine Library Commission, that including that library as a qualified library is in the public interest.

CD. Qualified School. “Qualified school” means a public school as defined in 20-A M.R.S.A. § 1(24), including alternative programs as provided for in 20-A M.R.S.A. § 4729; a private school approved under 20-A M.R.S.A. § 2901 or § 2951; or a school that provides free public access to all advanced telecommunications services available at that school, if the Commission determines, in consultation with the Department of Education, that including that school as a qualified school is in the public interest.

E. Radio Paging Service Provider. “Radio paging service provider” means a carrier that provides a radio paging service, as defined in 35-A M.R.S.A. § 102(15).

DF. Telecommunications. “Telecommunications” means the transmission, between or among points specified by the user, of information of the user’s choosing, without change in the form or content of the information as sent and received.

EG. Telecommunications Carrier. “Telecommunications carrier” means any provider of telecommunications services, except that it does not include aggregators of telecommunications services which, in the ordinary course of their operations, make telephones available to the public or to transient users of their premises using a provider of operator services.

FH. Telecommunications Education Access Fund. “Telecommunications Education Access Fund” is a fund established with contributions from contributing telecommunications carriers that will be used to provide discounts to qualified schools and

libraries to assist in paying the costs of acquiring and using advanced telecommunications technologies.

GI. Telecommunications Service. “Telecommunications service” means the offering of telecommunications for a fee directly to the public, or to such class of users as to be effectively available directly to the public, regardless of the facilities used.

§ 2 ASSESSMENT

A. Contribution. Each contributing telecommunications carrier that had billed intrastate retail revenues for telecommunications services of \$12,500 or more during the most recently completed quarter year shall contribute to the Telecommunications Education Access Fund ~~up to 0.5% of retail charges for telecommunications services, excluding interstate toll or interstate private line services~~ the percentage of those revenues established pursuant to subsection B.

B. Establishment of the Amount. By May 1 of each year, the Commission shall establish an amount of up to 0.5% of the intrastate retail charges-billed revenues to be ~~collected-paid~~ by contributing telecommunications carriers from July 1 to June 30 of the next proceeding year. In establishing the amount, the Commission shall consider the needs of schools and libraries, particularly as recommended by the Maine School and Library Education Access Fund Advisory Board; the amount collected in the previous year; and the impact on ratepayers, particularly when the amount for the Fund is integrated with any State Universal Service Fund developed by the Commission. The Fund Administrator shall add an amount for amounts billed to contributors that may be uncollected pursuant to the provisions of Chapter 288, section 4(B), provided that the maximum amount that may be collected from contributors does not exceed 0.5 percent of their billed intrastate retail revenues. In the first year following the implementation of the Maine Universal Service Fund, the uncollectible percentage for this Fund shall be one percent.

C. Determination of Retail Revenues Derived from Jurisdictionally Mixed Charges as Intrastate or Interstate.

1. Application. Assessments shall apply to those charges or rates of an IXC, a mobile telecommunications provider or a radio-paging provider that apply on an unseparated basis to both intrastate and interstate service (e.g., minimum monthly bills, with or without a usage allowance and bills that combine interexchange and local services) provided in Maine, except as provided in paragraph 2 below.

2. Exception. If approved by the Commission or by the Director of Finance, IXCs, mobile telecommunications carriers and radio paging providers may apportion revenue derived from charges or rates that apply on an unseparated basis to both intrastate and interstate service using minutes of use or some other reasonable and

verifiable apportionment method. Mobile telecommunications providers may use the “safe harbor” methodology established by the Federal Communications Commission.

ED. Remittance of Funds Collected Administrator. The Commission shall contract with an appropriate independent fiscal agent to serve as the aAdministrator of the fund. ~~All funds collected by c~~Carriers shall ~~be turned over~~pay contributions to the ~~fiscal agent~~Administrator ~~on a monthly~~ quarterly basis ~~as directed by the Administrator and the Commission.~~

§ 3. RECOVERY OF CONTRIBUTIONS FROM RETAIL CUSTOMERS

CA. Collection Process From Retail Customers; Surcharge. ~~The amount will be collected~~Each contributing telecommunications carrier shall collect its contributions ~~as a percentage of up to 0.5% of from its retail customers by applying the percentage established by the Commission pursuant to section 2(B) as a surcharge to bill for retail charges for intrastate telecommunications services billed to each retail customer, excluding interstate tolls or interstate private line services.~~

B.. Application to Jurisdictionally Mixed Charges.

1. Application Allowed only with Approved Apportionment Method. If an IXC has rates or charges that that apply on an unseparated basis to both intrastate and interstate service (e.g., minimum monthly bills, with or without a usage allowance ~~and bills that combine interexchange and local services~~), it may not apply the surcharge to any portion of those charges except pursuant to an apportionment method for those rates or charges approved pursuant to sub-paragraph (b) below;

2. Approval of Apportionment Method. The Commission or the Director of Finance may approve an apportionment method, using minutes of use or some other reasonable method, that will allow an IXC to surcharge the intrastate portion of mixed intrastate-interstate charges. If, pursuant to Section 2(C), the Commission approves an apportionment method (e.g., minutes of use) for the assessment of revenues derived from mixed intrastate-interstate charges, the carrier shall apply the same apportionment method to every mixed intrastate-interstate charge on each customer's bill;

DC. Identification of Amount on Bill. The ~~amount charged~~surcharge shall be included on customers' bills as a separate line item and be identified as “School and Library Fund.”

§ 34 USE OF FUNDS

A. Eligible Services. By May 1 of each year, the Commission will determine what services from the following list will be eligible for funding for the following July 1 to June 30 time period:

1. Telecommunications services
2. Internet access
3. Internal connection
4. Computers
5. Training

B. Minimum Services Available. At a minimum, discounts will be available for Internet access, including Internet service and connections to the Internet, to ensure at least the same level of access available to each school and library under the Maine School and Library Network as existed on June 30, 2001.

C. Innovative and Technologically Advanced Projects. The Commission will establish a process for accepting proposals from qualified schools and qualified libraries for innovative and technologically advanced projects and ensure that at least 25% of each annual program budget is allocated to such projects.

§ 45 ELIGIBILITY FOR STATE DISCOUNT

A. Eligibility Criteria. All qualified schools and qualified libraries may apply for discounts from the Fund.

B. Use of Federal E-Rate. Any qualified school or qualified library that seeks a state discount for a service that is eligible for a Federal E-Rate discount, must have applied for Federal E-Rate by submitting the federal form 470 and 471, or its equivalent should the forms change, or by participating under a Form 470 submitted by the Department of Education, State Library or other consortia.

C. Application Process. The Commission will establish a State application process. Qualified schools and qualified libraries must also submit a copy of their federal Form 470 and 471, or certify that they are part of a consortia that is filing these forms on their behalf, or explain why the school or library is ineligible for a Federal E-Rate discount.

§ 56 ADVISORY BOARD

A. Membership. There shall be a Maine Telecommunications Education Access Fund Advisory Board with representatives of the following:

1. Public Utilities Commission, two members as designated by the Commission; one of which will be designated the Chairperson;
2. Public Advocate, as designated by the Public Advocate;
3. Independent telephone companies, as designated by the Telephone Association of Maine;
4. Verizon-Maine (Formerly Bell Atlantic), as designated by Verizon-Maine;
5. Qualified public libraries, as designated by the Maine State Librarian;
6. Qualified public schools, as designated by the Commissioner of Maine Department of Education;
7. Internet service providers, as designated by Internet service providers operating in Maine;
8. Maine cable television operators, as designated by the New England Cable Television Association; and
9. Wireless carriers, as designated by the wireless carriers operating in Maine;

The Commission may designate other members if it finds interests necessary to the project are not adequately represented.

B. Duties. The Advisory Board will have limited functions as assigned to it by the Commission or as provided for in this Rule. By March 15 each year, the Board shall recommend to the Commission what services should be funded for the upcoming year, the recommended level of funding for those services, and the overall amount to be assessed by Contributing Telecommunication Carriers. The Board will ensure that the needs of all interested persons are considered and represented in information presented to the Commission for any decision to be made by the Commission.

C. Procedures.

1. Meetings. The Chairperson shall schedule regular meetings of the Advisory Board. Meetings will be open to the public. The Chairperson will determine the extent of public participation at Advisory Board meetings. To the extent that proprietary or competitively sensitive information that requires trade secret protection must be brought before the Advisory Board, the Chairperson may issue such protective orders as may be necessary, pursuant to the Maine Rules of Civil Procedure as provided in 35-A M.R.S.A. § 1311-A.

2. Voting. The voting members shall be the Commission Staff members, the representative of the OPA and the representatives of the libraries and schools. For a particular decision, if the Board makes a recommendation by majority vote, those voting in the minority will have a reasonable opportunity to present their views to the Commission. If the Commission designates members to the Board in addition to those listed specifically in Section 5(A), the voting status of the member will be determined at that time.

§67 WAIVER OR EXEMPTION

Upon the request of any person subject to the provisions of this Chapter or upon its own motion, the Commission may, for good cause, waive any of the requirements of the purposes of this Chapter or Title 35-A. The Commission, the Director of Technical Analysis, or the Presiding Officer assigned to a proceeding related to this Chapter may grant the waiver.

BASIS STATEMENT: The factual and policy basis for this rule is set forth in the Commission's Statement of Factual and Policy Basis and Order Adopting Rule, Commission Docket No. 2000-387, issued on July 19, 2000. Copies of this Statement and Order have been filed with this rule at the Office of the Secretary of State. Copies may also be obtained from the Administrative Director, Public Utilities Commission, 242 State Street, 18 State House Station, Augusta, Maine 04333-0018.

AUTHORITY: 35-A M.R.S.A. §§104, 111, 7104-B.

EFFECTIVE DATE: This rule was approved as to form and legality by the Attorney General on August 21, 2000. It was filed with the Secretary of State on August 21, 2000 and will be effective on August 26, 2000.